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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,427	03/23/2004	Hiroyuki Watanabe	04329.3284	2944
22852 7590 01/22/2008 FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413				
			EXAMINER RIYAMI, ABDULLA A	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 01/22/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/806,427

Applicant(s)

WATANABE, HIROYUKI

Examiner

Abdullah Riyami

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claim 1-12 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
 3. Claim 1, 3, 9, 11 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Fascenda (US 2004/0068653).

As per claim 1, Fascenda discloses an information processing device performing a network connection via a wireless relay apparatus (see abstract), the device comprising: a finding unit (see figure 2, device 210) configured to find the wireless relay apparatus (see figure 2, device 220); and a detector (see figure 2, device 210) configured to detect identification information of the wireless relay apparatus found by

the finding unit (see paragraphs 9, 10, 11, 20 and 21); and a displaying unit configured to display information, which is characterized according to the identification information of the wireless relay apparatus detected by the detector (see paragraphs 9, 10, 11, 20, 21 and 62).

As per claim 3, Fascenda discloses an information processing device performing a network connection via a wireless relay apparatus (see abstract), wherein the display unit comprises a database which stores the information which is characterized according to the identification information of the wireless relay apparatus and corresponding identification information of the wireless relay apparatus (see paragraphs 9, 11, list).

As per claim 9, Fascenda discloses computer-readable medium for use on a network-connectable device through a wireless relay apparatus, the computer-readable medium having computer-executable instructions (see abstract, paragraphs 9, 10, 11, 19, 20, 21 and 62) for performing a method comprising: finding the wireless relay apparatus; and detecting identification information of the found wireless relay apparatus (see paragraphs 9, 10, 11, 19, 20, 21 and 62); and displaying information characterized according to and the identification information on the found wireless relay apparatus (see paragraphs 9, 10, 11, 19, 20, 21 and 62).

As per claim 11, Fascenda discloses the displaying includes managing a database which stores the information which is characterized according to the information which is characterized according to the identification information of the

wireless relay apparatus and corresponding identification information of the wireless relay apparatus (see paragraphs 9, 11, list).

As per claim 12, Fascenda discloses the displaying includes displaying selectable information in accordance with the identification information on the found wireless relay apparatus, and setting connection environment using the found wireless relay apparatus when the displayed selectable information is selected (see paragraphs 9, 10, 11, 19, 20, 21 and 62).

Claim Rejections - 35 USC § 103

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 4-8, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fascenda (US 2004/0068653) in view of Slovin (6144855).

As per claim 2, Fascenda discloses an information processing device performing a network connection via a wireless relay apparatus (see abstract), the device comprising: a displaying unit (see figure 2, device 210).

Fascenda does not expressly disclose a counting unit configured to count a finding frequency of the wireless relay apparatus found by the finding unit wherein the displaying of information is characterized according to the identification information detected by the detector in a display form characterized according to the finding frequency counted by the counting unit.

Slovin discloses a counting unit configured to count a finding frequency of the wireless relay apparatus found by the finding unit (see figure 1, see column 1-10), wherein the displaying of information is characterized according to the identification information detected by the detector in a display form characterized according to the finding frequency counted by the counting unit (see figure 1, see column 1-10).

Fascenda and Slovin are analogous art because they are from the same fields of endeavor of selecting access points.

At the time of the invention it would have been obvious to one of ordinary skill in the art to use Slovin's table (see figure 1) in Fascenda's Mobile station (see figure 2) for aid in selecting access points.

The motivation to combine would have been to have a mobile device which listens for beacon frames associated with access points and creating a list of communication parameters available to the user, from which the user makes a choice.

As per claim 4, Fascenda does not expressly disclose the displaying of the peculiar icon or the character message in a display form according to the counted finding frequency.

Slovin discloses displaying of the peculiar icon or the character message in a display form according to the counted finding frequency (see figure 1, see column 1-10).

Fascenda and Slovin are analogous art because they are from the same fields of endeavor of selecting access points.

At the time of the invention it would have been obvious to one of ordinary skill in the art to use Slovin's table (see figure 1) in Fascenda's Mobile station (see figure 2) for aid in selecting access points.

The motivation to combine would have been to have a mobile device which listens for beacon frames associated with access points and creating a list of communication parameters available to the user, from which the user makes a choice.

As per claim 5, Fascenda discloses the displaying unit acquires service information or advertisement information for the wireless relay apparatus found by the finding unit and displays the acquired information (see beacon, paragraphs 9, 10, 11, 19, 20, 21 and 62).

As per claim 6, Fascenda does not expressly disclose judging a condition associated with the wireless relay apparatus found and displaying changes to the information based on the judged condition.

Slovin discloses judging a condition associated with the wireless relay apparatus found and displaying changes to the information based on the judged condition (see figure 1, see column 1-10).

Fascenda and Slovin are analogous art because they are from the same fields of endeavor of selecting access points.

At the time of the invention it would have been obvious to one of ordinary skill in the art to use Slovin's table (see figure 1) in Fascenda's Mobile station (see figure 2) for aid in selecting access points.

The motivation to combine would have been to have a mobile device which listens for beacon frames associated with access points and creating a list of communication parameters available to the user, from which the user makes a choice

As per claim 7, Fascenda discloses the displaying unit displays selectable information in accordance with the identification information I characterized according to identification information on the found wireless relay apparatus, and sets connection environment using the wireless relay apparatus found by the finding unit when the corresponding information is selected (see paragraphs 9, 10, 11, 19, 20, 21 and 62).

As per claim 8, Fascenda does not expressly disclose the acquiring unit configured to acquire a database associating each identification information of the wireless relay apparatuses which can be found by the finding unit the with information displayed by the displaying unit from an external apparatus which is connected with the network through the finding unit.

Slovin discloses the acquiring unit configured to acquire a database associating each identification information of the wireless relay apparatuses which can be found by the finding unit the with information displayed by the displaying unit from an external apparatus which is connected with the network through the finding unit (see figure 1, see column 1-10).

Fascenda and Slovin are analogous art because they are from the same fields of endeavor of selecting access points.

At the time of the invention it would have been obvious to one of ordinary skill in the art to use Slovin's table (see figure 1) in Fascenda's Mobile station (see figure 2) for aid in selecting access points.

The motivation to combine would have been to have a mobile device which listens for beacon frames associated with access points and creating a list of communication parameters available to the user, from which the user makes a choice

As per claim 10, Fascenda discloses computer-readable medium for use on a network-connectable device through a wireless relay apparatus, the computer- readable medium having computer-executable instructions (see abstract, paragraphs 9, 10, 11, 19, 20, 21 and 62).

Fascenda does not expressly disclose displaying includes counting a finding frequency of the each found wireless relay apparatus apparatuses, and reflecting the counted finding frequency to the displayed information.

Slovin discloses displaying includes counting a finding frequency of the each found wireless relay apparatus apparatuses, and reflecting the counted finding frequency to the displayed information (see figure 1, see column 1-10).

Fascenda and Slovin are analogous art because they are from the same fields of endeavor of selecting access points.

At the time of the invention it would have been obvious to one of ordinary skill in the art to use Slovin's table (see figure 1) in Fascenda's Mobile station (see figure 2) for aid in selecting access points.

The motivation to combine would have been to have a mobile device which listens for beacon frames associated with access points and creating a list of communication parameters available to the user, from which the user makes a choice.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See form 892.
8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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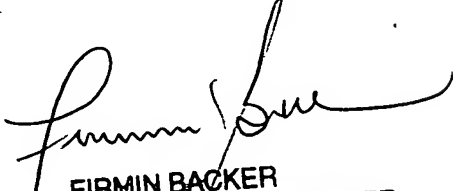
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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdullah Riyami whose telephone number is (571) 270-3119. The examiner can normally be reached on Monday through Thursday 8am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Firmin Backer can be reached on (571)272-6703. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


FIRMIN BACKER
SUPERVISORY PATENT EXAMINER

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